

Department of Justice

Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

§ 90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(c) *Unit of local government* means any city, county, township, town, borough, parish, village, or other general-purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands.

§ 90.62 Purposes.

(a) The purposes of this program are:

(1) To implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest pro-

grams and policies for protection order violations;

(2) To develop policies and training programs in police departments and other criminal justice agencies to improve tracking of cases involving domestic violence;

(3) To centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(5) To strengthen legal advocacy service programs for victims of domestic violence; and

(6) To educate judges, and others responsible for judicial handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence and improve judicial handling of such cases.

(b) Grants awarded for these purposes must demonstrate meaningful attention to victim safety and offender accountability.

§ 90.63 Eligibility.

(a) Eligible grantees are States, Indian tribal governments, or units of local government that:

(1) Certify that their laws or official policies—

(i) Encourage or mandate the arrest of domestic violence offenders based on probable cause that an offense has been committed; and

(ii) Encourage or mandate the arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) Demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) Certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

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(4) Certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena (arising from the incident that is the subject of arrest or criminal prosecution).

(b) If these laws, policies, or practices are not currently in place, States, Indian tribal governments, and units of local government must provide assurances that they will be in compliance with the requirements of this section by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act 2102(a)(1) 42 U.S.C. 3796hh–1(a)(1).

(c) For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed in this section. However, in its application for funding through this Program, a State, Indian tribal government, or unit of local government must identify the type of policy that it intends to develop, and specify the process by which the policy will be developed and enacted. The policy development process must involve a coordinated effort by criminal justice personnel and non-profit, private, domestic violence or sexual assault programs, including State coalitions.

§ 90.64 Application content.

(a) *Format.* Applications from States, Indian tribal governments and units of local government must be submitted on Standard Form 424, Application for Federal Assistance, at a time designated by the Office of Justice Programs. The Violence Against Women Grants Office of the Office of Justice Programs will develop and disseminate to States, Indian tribal governments, local governments and other interested parties a complete Application Kit which will include a Standard Form 424, a list of assurances to which applicants must agree, and additional guidance on how to prepare and submit an

application for grants under this subpart. To receive a complete Application Kit, please contact: The Violence Against Women Grants Office, Office of Justice Programs, Room 442, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone: (202) 307-6026.

(b) *Programs.* Applications must set forth programs and projects that meet the purposes and criteria of the Grants to Encourage Arrest program set out in §§ 90.62 and 90.63 of this part.

(c) *Requirements.* Applicants in their applications shall, at a minimum:

(1) Describe plans to further the purposes stated in § 90.62 of this part;

(2) Identify the agency or office or groups of agencies or offices responsible for carrying out the program. Examples of these agencies or offices include police departments, prosecution agencies, courts and probation or parole departments; and

(3) Include documentation from non-profit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and explain how these groups will be involved in the development and implementation of the project.

(d) *Certifications.* (1) As required by section 2102(a) of the Omnibus Act, 42 U.S.C. 3796hh–1(a), each State, Indian tribal government or unit of local government must certify in its application that it has met the eligibility requirements set out in § 90.63 of this part.

(2) Each State, Indian tribal government or unit of local government must certify that all the information contained in the application is correct. All submissions will be treated as a material representation of fact upon which reliance will be placed, and any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.65 Evaluation.

(a) The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs will set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds must agree to cooperate with